



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2982



Manchester Redimix Concrete, Inc.
89 Calef Road
Manchester, N.H. 03103

ADMINISTRATIVE ORDER
BY CONSENT
No. WD 01-25

RECEIVED
AUG 01 2001
DES-WEB

A. Introduction

This Administrative Order by Consent ("Order") is issued by the Department of Environmental Services, Water Division, to Manchester Redimix Concrete, Inc. ("MRC") with the consent of MRC pursuant to RSA 485-A:22 and RSA 482-A:6. This Order is effective upon signature by all parties.

B. Parties

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, with principal offices at 6 Hazen Drive, Concord, NH.
2. Manchester Redimix Concrete, Inc. ("MRC") is a New Hampshire corporation having a mailing address of 89 Calef Road, Manchester, NH 03103.

C. Statements of Facts and Law

1. MRC is the owner of land located at 89 Calef Road in Manchester, NH and identified as Lot 1 on Manchester Tax Map 735, ("the Property"). MRC operates a concrete products facility on the Property.
2. Runoff from the Property flows to an abandoned railroad bed. Once in the railroad bed the runoff mixes with other stormwater and becomes an unnamed tributary to the Merrimack River ("the Tributary").
3. Pursuant to Laws of 1991, 371:7, the lower Merrimack River and its tributaries are classified as Class B waters.
4. RSA 485-A:13,I(a) states in part: "It shall be unlawful for any person or persons to discharge or dispose of any sewage or waste to the surface water or groundwater of the state without first obtaining a written permit from [DES]."

5. Title 40 Code of Federal Regulations ("CFR") Part 122, adopted by the United States Environmental Protection Agency (EPA) pursuant to the federal Clean Water Act, prohibits point source discharges of storm water associated with industrial activity to water bodies of the United States without a National Pollutant Discharge Elimination System (NPDES) permit. The Multi-Sector General Storm Water Permit ("MSGP") covers storm water discharges associated with industrial activity including concrete products facilities such as MRC. MRC has had coverage under the MSGP since 1997.

6. The MSGP requires MRC to have a Storm Water Pollution Prevention Plan ("SWP3") to abate storm water pollution on site. Further, the MSGP requires regular employee storm water training, storm water quality monitoring, and regular site inspections, with associated documentation thereof.

7. DES observed the following SWP3 deficiencies during a December 7, 1999 site investigation:

- a. The SWP3 was not consistent with actual site practices;
- b. The actual facility practices were not sufficient to prevent mobilization of process material off the site;
- c. MRC had not conducted storm water quality monitoring as required by the MSGP;
- d. MRC was not maintaining records of site inspections; and
- e. MRC was not maintaining records of employee training.

8. On or about December 13, 1999, DES issued a Letter of Deficiency to MRC regarding the aforementioned issues.

9. On November 9, 2000, MRC submitted to DES a Preliminary Storm Water Improvements Plan, a revised SWP3, and a schedule for implementation thereof.

10. By letter dated January 16, 2001 to MRC, DES accepted the Storm Water Improvements Plan, but questioned the references to process water discharges in the SWP3.

11. By letter dated June 19, 2001 to DES, MRC consultant explained that the Property has several potential process water generation points that could result in a process discharge to the Tributary. These are as follows:

- a. Leaking water valves used to fill water tanks on concrete trucks;
- b. Leaking charging system water valve in the concrete batch plant;
- c. Concrete truck exterior wash, after each concrete fill; and
- d. Concrete truck mixer barrel interior washout, once a day per truck.

12. The MSGP does not cover process discharges, and DES has not issued a permit under RSA 485-A:13 for the Property.

13. On June 19, 2001, DES received a work scope and schedule from MRC, which proposed the following deadlines:
- a. MRC will purchase a street sweeping truck by June 19, 2001 and conduct regular sweeping of the Property. MRC has purchased the sweeper and sweeping has commenced.
 - b. MRC will conduct plant manager training. MRC completed this task on May 19, 2001.
 - c. MRC will revise the SWP3 by August 1, 2001.
 - d. MRC will conduct preliminary driver training by August 27, 2001.
 - e. MRC will relocate water fill rack to east side of property by outside water tank by September 1, 2001.
 - f. MRC will enlarge settling basin by new water fill-up area by September 1, 2001.
 - g. MRC will conduct more extensive driver training concerning truck-rerouting and new basin area by October 31, 2001.
 - h. MRC will construct a new settling basin area on south side of property by November 1, 2001.
 - i. MRC will repair leaking water pipe/valve beneath concrete batch plant by April 1, 2002. Until the repair is made, MRC will leave trucks parked under the valve, when feasible, to collect and contain water from the valve, and will routinely clean and sweep the area under the batch plant. Further, MRC will inspect for petroleum spills in this area.

D. Determination of Violations

1. MRC has violated RSA 485-A:13,I by discharging process operation wastewater from the concrete truck water tank fill valve to the surface waters of the State without first obtaining a permit from DES.
 2. MRC has violated RSA 485-A:13,I by discharging process operation wastewater from the concrete batch plant charging system water valve to the surface waters of the State without first obtaining a permit from DES.
 3. MRC has violated RSA 485-A:13,I by discharging process operation wastewater from the concrete truck exterior wash to the surface waters of the State without first obtaining a permit from DES.
 4. MRC has violated RSA 485-A:13,I by discharging process operation wastewater from concrete truck mixer barrel cleaning to the surface waters of the State without first obtaining a permit from DES.
 5. MRC has violated the MSGP by not conducting storm water quality monitoring.
 6. MRC has violated the MSGP by not maintaining records of site inspections.
- MRC has violated the MSGP by not maintaining records of employee training

8. MRC has violated Section 301(a), 33USC~1311(a) of the Clean Water Act by not complying with the conditions set forth within the MSGP.

E. Order

Based on the above findings and determinations, DES, with the consent of MRC hereby orders MRC to undertake and complete the following in accordance with the time schedules specified:

1. Initiate inspections, monitoring and record keeping as required by the MSGP **within two weeks of the effective date of this Order**. This Order is effective upon signature by all parties.
2. Conduct training for the MRC operators and drivers regarding the temporary pollution prevention measures that MRC will adopt until MRC eliminates the potential process discharge from the fill valve in the concrete batch plant, **within two weeks of the effective date of this Order**. This training shall include measures to reduce process water exposure to storm water. This training shall also include concrete batch plant cleaning practices and petroleum release inspection and remediation practices.
3. Revise the SWP3 to accurately reflect site conditions, and submit the revised SWP3 to DES for approval **within two weeks of the effective date of this Order**.
4. Fully implement the SWP3, with the exception of the items addressed below, **within 30 days of DES approval**.
5. Relocate the water fill rack to the east side of the Property, by outside water tank, by **September 1, 2001**.
6. Enlarge the settling basin by the new water fill-up area by **September 1, 2001**.
7. Conduct more extensive driver training concerning truck-rerouting and the new settling basin area by **October 31, 2001**.
8. Construct a new settling basin area on the south side of the Property by **November 1, 2001**.
9. Reconstruct the water pipe/valve beneath concrete batch plant to prevent leakage by **April 1, 2002**.

Please address correspondence to:
Sharon L. Ducharme, P.E.
DES Wastewater Engineering Bureau
6 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

F. Stipulated Penalties; Penalties for Past Violations

1. MRC shall be liable for the stipulated penalties provided for in Paragraph 2 of this section for failure to comply with the terms of this Order within the time frames specified in this Order.
2. MRC shall pay \$2,000 per calendar month or portion thereof that compliance is not achieved after the deadline specified in the Order for each provision of the Order not complied with.
3. Any penalties that become due pursuant to these provisions shall be paid upon demand by DES. Payment shall be by certified check made payable to "Treasurer, State of NH" and mailed or delivered to:

Attention: James Ballentine, DES Paralegal
Office of the Commissioner
P.O. Box 95
Concord, NH 03302-0095
4. Notwithstanding the above-noted stipulated penalties, DES reserves the right to pursue other remedies or sanctions, if necessary, should MRC fail to comply with the terms of this Order. Such remedies and sanctions may include, but are not limited to, administrative penalties, injunctive relief, and referral of this matter to the NH Attorney General's Office for imposition of civil and/or criminal penalties.
5. If MRC misses a deadline due to circumstances beyond MRC's control, penalties will not become due relative to that specific deadline. Failure to secure funding for the projects required in the Order and failure of a consultant to meet deadlines are not to be construed as beyond MRC's control.
6. DES agrees to waive penalties for the violations cited in this Order contingent upon MRC complying with all the terms of this Order. DES reserves the right to seek penalties for all such violations if MRC does not comply with this Order.

G. Consent and Waiver of Appeal

1. By execution of this Order, MRC agrees that this Order applies to and is binding on MRC, its officers, directors, successors, and assigns.
2. By execution of this Order, MRC waives any right to appeal this Order provided by statute, rule, or common law, including without limitation the right to appeal to the Water Council, and waives any right to object to the entry and enforcement of this Order by a court of competent jurisdiction.

Manchester Redimix Concrete, Inc.

Date: 7-31-01

DEPARTMENT OF ENVIRONMENTAL SERVICES

COPY

Harry T. Stewart, P.E., Director
Water Division

Date: 8/01/01

COPY

Varney

Date: 8/2/01

cc: Mike Walls, NHDOJ/AGO
~~Gretchen Rule, NHDES Legal Unit~~
Joy Hilton, USEPA
Sharon Ducharme, P.E., NHDES WEB

CERTIFIED MAIL/RRR: